

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CASE NO. 5:09CR27**

**UNITED STATES OF AMERICA**           )  
  )  
**v.**   )  
  )  
**BERNARD von NOTHAUS**                       )  
\_\_\_\_\_)   )

**Motion to Withdraw as Counsel**

COMES NOW, the undersigned appointed counsel, Christopher C. Fialko, and moves the Court to allow him to withdraw as counsel for defendant Bernard von NotHaus, because counsel has a conflict of interest that will not allow him to represent the defendant effectively.

In support of this motion, counsel shows the Court the following:

1. On July 8, 2009, the Court appointed counsel to represent Mr. von NotHaus, pursuant to the Criminal Justice Act.
2. On July 10, 2009, the government alerted counsel that a potential conflict of interest may exist due to counsel's representation of another federal client.
3. Counsel has investigated the potential conflict, and determined that the representation of Mr. von NotHaus will be materially limited by counsel's responsibilities to another federal client. *See* Rule 1.7(a)(2) of the North Carolina Rules of Professional Conduct. In the same manner, representation of the other federal client will be materially limited by counsel's representation of Mr. Von NotHaus. Rule 1.7

prohibits representation of two such clients due to such a concurrent conflict of interest.

4. The arraignment for Mr. von NotHaus has been set for August 4, 2009.

THEREFORE counsel moves the Court to issue an Order allowing counsel to withdraw due to a conflict of interest. Counsel further moves the Court to appoint new counsel for Mr. von NotHaus.

THIS the 19<sup>th</sup> day of July, 2009.

\_\_\_\_/s/ Christopher C. Fialko\_\_\_\_  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I served the foregoing Motion by the Court's ECF filing system, to:

Jill Westmoreland Rose, Esq.  
Assistant U.S. Attorney  
[Jill.Rose@usdoj.gov](mailto:Jill.Rose@usdoj.gov)

THIS the 19<sup>th</sup> day of July, 2009

CHRISTOPHER C. FIALKO